STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES Land Division Honolulu, Hawaii 96813

July 22, 2016

Board of Land and Natural Resources State of Hawaii Honolulu, Hawaii

Kauai

PSF No.:16KD-059

Issuance of Grant of Term, Non-Exclusive Easement to New Cingular Wireless PCS, LLC for Access Purposes; Issuance of Immediate Right-of-Entry Permit to New Cingular Wireless PCS, LLC for Access Purposes; Por. of Kapaa Rice & Kula Lots, Kawaihau, Kauai, Tax Map Key: (4) 4-5-005:012

APPLICANT:

New Cingular Wireless PCS, LLC.

LEGAL REFERENCE:

Section 171-55 and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa situated at Kapaa Rice & Kula Lots, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-5-005:012, as shown on the attached map labeled Exhibit A.

AREA:

1,300 square feet, more or less.

ZONING:

State Land Use District:

Urban

County of Kauai CZO:

General Commercial

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

New Cingular Wireless PCS, LLC

CURRENT USE STATUS:

A portion of the subject land is encumbered by LOD S-29118, which is a Grant of Easement to Peter Sperry for access and utility purposes. The portion of the subject parcel that will be encumbered by the requested easement is vacant and unencumbered.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

ANNUAL RENT:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed:

YES

Registered business name confirmed:

YES

Applicant in good standing confirmed:

YES

APPLICANT REQUIREMENTS: Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The subject State property identified as Tax Map Key: (4) 4-5-005: por.012 is described as a "Right-of-way 10.00 feet wide for drainage ditch" and is an un-awarded portion of the Government (Crown) Land of Kapaa. The drainage ditch is not currently maintained and its functionality as a drainage feature is questionable.

New Cingular Wireless PCS, LLC (New Cingular) is planning to use the unencumbered portion of Tax Map Key: (4) 4-5-005:012 (Parcel 12) to access its cell tower site on the adjacent parcel identified as Tax Map Key: (4) 4-5-005:014 (Parcel 14). See Exhibit A.

Parcel 14 is owned by Kauai Island Utility Cooperative (KIUC). Recent changes to KIUC's base yard now prevent New Cingular from accessing its antenna tower on Parcel 14 with service vehicles that allow New Cingular's technicians to be lifted up for tower maintenance. As a result, New Cingular is requesting a grant of term easement and an immediate right-of-entry permit to allow use of the parcel closest to antenna facility. New Cingular's use will involve driving and placing boom and lift trucks on the easement area parcel from time to time and New Cingular will not be disturbing or building any improvements that would impact the area. There will be enough clearance to allow traffic to pass by. The granting of the easement to New Cingular will not interfere with the easement to Peter Sperry under LOD S-29118, as the two easements are in different locations.

The proposed activity will not result in any known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

New Cingular not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Comments were solicited from the agencies identified below with the results indicated.

State Agencies:

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DOH	Temporary fugitive dust emissions could be emitted by
4	vehicular traffic (HAR 11-60.1)
DLNR – Historic Preserv.	No objections
OHA	No response by suspense date

County Agencies:

County Planning	See comments below.
Public Works	No response by suspense date
Water Dept.	No objections

The County of Kauai Planning Dept. commented: "Applicant shall not fill or block the existing drainage way to gain access across the State parcel. Existing drainage flow and runoff patterns shall be maintained at pre-development levels. Property is in the special flood hazard area designation Zone AE." Applicant's use of the easement will not impact any existing drainage flow.

There are no other pertinent issues or concerns, and staff has no objection to the request.

RECOMMENDATION: That the Board:

- 1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- 2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to New Cingular Wireless PCS, LLC covering the subject area for access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 3. Authorize the issuance of an immediate right-of-entry permit to New Cingular Wireless PCS, LLC covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The terms and conditions of the most current right-of-entry permit, as may be amended from time to time; and

New Cingular Wireless PCS, LLC

B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

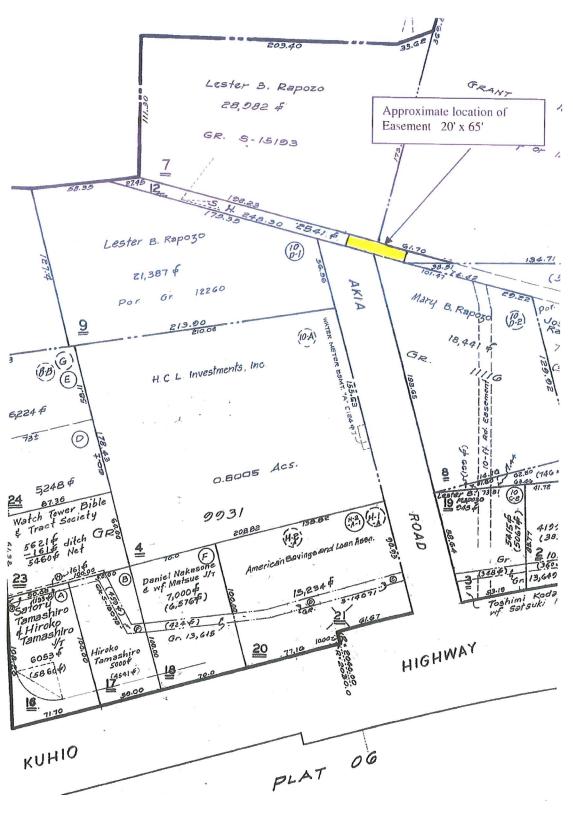
Respectfully Submitted,

Marvin Mikasa

District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson



TMK: (4) 4-5-005

EXHIBIT 'A'



DAVID Y. IGE GOVERNOR OF HAWAII





STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621 HONOLULU, HAWAII 96809 SUZANNE D. CASE

KEKOA KALUHIWA

JEFFREY T. PEARSON, P.E. DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT ONSERVATION AND RESOURCES EMPORCEMEN
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TO:

Land Division

THROUGH: Suzanne D. Case, Chairperson

FROM:

NEW CINGULAR WIRELESS PCS, LLC

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR GRANT OF EASEMENT AND RIGHT-OF-ENTRY PERMIT TO NEW CINGULAR WIRELESS PCS, LLC, FOR ACCESS PURPOSES TO REPAIR AND MAINTENANCE OF CELLULAR EQUIPMENT ON ADJACENT PROPERTY UNDER PSF No. 16KD-059.

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Issuance of Grant of Term, Non-Exclusive Easement to New Cingular Wireless PCS, LLC for Access Purposes.

Issuance of Immediate Right-of-Entry Permit to New Cingular Wireless PCS, LLC.

PSF Number: 16KD-059

Project Description:

The applicant is requesting a Grant of Term, Non-Exclusive Easement for Access Purposes onto State Unencumbered lands identified as Tax Map Key: (4) 4-5-005:012, to do maintenance on cellular equipment on property adjacent to subject parcel identified as Tax Map Key: (4) 4-5-005:014.

The applicant is requesting an immediate right-of-entry permit onto State Unencumbered lands lands identified as Tax Map Key: (4) 4-5-005:012, to do maintenance on cellular equipment on property adjacent to subject parcel identified as Tax Map Key: (4) 4-5-005:014.

EXHIBIT B

Applicant is requesting access to drive and place a boom and lift trucks on parcel and will not be disturbing or building any improvements that would impact the area. There will be enough clearance to allow traffic to pass by.

The applicant have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Consulted Parties:

The Right-of-Entry application was sent out for review and comments to the following agencies: Hawaii Department of Health (DOH), State of Hawaii - Department of Transportation, Highways Division, State of Hawaii Historic Preservation Division, Office of Hawaiian Affairs (OHA), Kauai County Planning Department, Kauai County Public Works Division.

Exemption Determination:

After reviewing HAR § 11-200-(8), DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment.

According to the Exemption List for the Department of Land and Natural Resources, as Reviewed approved by the Environmental Council on June 5, 2015, Exemption Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing," Item 46 "Creation or termination of easement, covenants, or other rights in structures or land." [HAR § 11-200-8(a)(46)].

Conclusion:

It is recommended that the Board declare that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

Board of Land and Natural Resources